

TAX I

Fall 2024

SYLLABUS

Law 607, Section 61

**Professor John Plecnik
CSU College of Law**

REQUIRED TEXT:

Kratzke, BASIC INCOME TAX (2023-2024 ed.)

Special thanks to Professor William Kratzke of the University of Memphis for authoring and sharing our required text free of charge. Here is the link to download the text from the Center for Computer-Assisted Legal Instruction:

[HTTPS://WWW.CALI.ORG/BOOKS/BASIC-INCOME-TAX#](https://www.cali.org/books/basic-income-tax#)

RECOMMENDED TEXT:

Lathrope, SELECTED FEDERAL TAXATION, STATUTES AND REGULATIONS (2024 ed.)

You are responsible for reading the assigned provisions of the Internal Revenue Code and Income Tax Regulations, and you should always have a copy of them at hand during class. As such, it is advisable to purchase a hard copy of the Code and Regulations if you do not already own one. However, you may choose to save the money and print out the assigned provisions from Lexis, Westlaw or any other legal database.

CLASS MEETINGS:

Tuesday & Thursday, 7:30 p.m. to 9:10 p.m., LB 12

OFFICE HOURS:

Tuesday & Thursday, 5:15 p.m. to 7:15 p.m.

Office: LB 229

Phone: Cell (440) 382-9978

E-mail: j.plecnik@csuohio.edu

We have class on Tuesdays and Thursdays from 7:30 p.m. to 9:10 p.m. and I also teach from 1:00 p.m. to 2:40 p.m. on those days. Outside of class, I should be in my office most of the day on the majority of Tuesdays and Thursdays. You need **not** make an appointment to see me. Just stop by.

POLICY ON USE OF CHAT GPT & AI LANGUAGE MODELS:

You may not use AI language models, such as Chat GPT and similar products, to write your exam answers or other assignments in this course.

COURSE OVERVIEW & OBJECTIVES:

Tax I is a four-credit course designed to survey the law of federal income taxation, with particular emphasis on the determination of taxable income, deductions in computing taxable income, the correct time period for reporting income and deductions, and the correct taxpayer on which to impose the tax. Unlike the majority of law courses, which focus on common law jurisprudence, the primary source of law in this course is a statute. Thus, this course is also a valuable introduction to statutory and administrative law.

This course is only intended to be a basic introduction to the doctrines and policies of the law of federal income taxation. More advanced issues are covered in other courses. For example, a detailed examination of practice before the Internal Revenue Service and arguing tax cases in federal court is reserved for Tax Procedure, Penalties & Crimes.

CLASS ATTENDANCE & PREPARATION:

The accreditation rules of the American Bar Association provide that law schools must announce and adhere to attendance requirements, which are examined for compliance during the septennial accreditation visits. I require that students miss no more than 2 weeks of a 14-week semester. Thus, for this class, students may miss no more than 4 classes without consequence. I consider “attendance” to encompass “adequate preparation” as well as physical presence. Thus, a failure to prepare adequately can constitute an absence.

Absence (or its equivalent—a failure to prepare) for more than 2 weeks of classes may result in a lower final grade (including the grade of “F” in egregious instances) or administrative withdrawal from the course in my sole discretion, depending on my evaluation of the equities of the situation that caused the excessive absences or lack of preparation.

The 2-week period is intended to account for the range of true emergencies that might arise, including personal and family illnesses, child-care problems, moot court and law review deadlines, outside work responsibilities, and employer interviews. Because such things inevitably arise unexpectedly, I highly encourage you to save what many students come to think of as “free days” for these purposes. You need not report to me the reason for an absence; the function of the two-week period is to allow you to miss class, when necessary, without the need for me to evaluate the merits of the reason for your absence. I assume good faith on the part of students and that, when you are not in class, you have a good reason for the absence, such as illness or job interviews. You need not use the free days to observe religious holidays; such absences will constitute additional

excused days if you give me notice in writing before the holiday. Please see me if absences or instances of lack of preparation begin to mount and put you at risk.

I will take attendance at the beginning of each class. **Please be in your seat ready to begin class promptly.** Attendance will be taken by roll call or by circulating the class roster for your signature. If you fail to reply during the roll call or if you fail to sign the attendance roster within the first fifteen minutes of the class, as applicable, you will be counted as absent. You will not be permitted to reply or sign the roster after class has been completed. Replying or signing the roster for another student is an Honor Code violation.

CANCELLED CLASSES:

I will make every effort to adhere to the scheduled class times. In the event I have to cancel a class, I will notify you by email.

RECORDING OF CLASSES:

Any recording of class sessions for this course by students, whether audio, video or otherwise, is strictly prohibited unless prior approval has been obtained from the professor. The photography of examinations and other class materials provided for personal use during class, review sessions, office hours or otherwise is strictly prohibited. This is an in-person course. There is NO Zoom, videoconferencing or online option for this course. There is no official recording of class sessions.

EXAMINATION & GRADING:

There will be one final examination at the end of the course. **The examination will be in-class, open book, and 3 hours in length.** We will discuss the examination in more detail later in the semester.

The examination grade normally will count for 100% of your final grade. Class participation, however, can move your grade to a higher grade category. Class participation includes participation in and/or performance on any assigned practice tests or multiple choice questions. As noted above, absences (including a failure to prepare) beyond the 2-week period may lower your final grade.

DISABILITY ISSUES:

If you have a disability for which you are or may be requesting an accommodation, please contact the law school administration.

READING ASSIGNMENTS:*

We simply cannot cover every page and every topic discussed in the text. Through a combination of skipping parts of chapters as well as entire chapters, we shall skip about 1/8 of the book. The coverage is typical; I cover neither more nor less than the typical 4-hour basic federal income tax course in law schools across the country.

Always read the provisions of the Code and Regulations discussed in the text before class, and always bring a copy of them to class.

Throughout the semester, I may distribute a handful of handouts to supplement your reading.

Preface (p. vi)

Chapter 1: The Government Raises Money: Introduction to Some Basic Concepts of Taxes and Taxing Income (p. 1)

- I. Introduction to Some Basic Concepts (p. 1)
- II. Tax and Life (p. 6)
- III. Some Definitions Relevant to Taxing Income (p. 8)
- IV. Layout of the Code (p. 15)
- V. Not All Income Is Taxed and Not All Income Is Taxed Alike (p. 17)
- VI. Illustration of the Tax Formula and Working with Some Tax Terminology (p. 18)
- VII. Statements of Tax Law and the Role of Courts (p. 23)
- VIII. Some Income Tax Policy and Some Income Tax Principles (p. 25)
- IX. What We Tax: What Is Income? (p. 27)
- Wrap-up Questions for Chapter 1 (p. 37)
- What have you learned? (p. 38)

* Rather than assign material for specific days, this schedule is built around topics to be covered. This will provide flexibility in the schedule since some topics will take more time to cover than others. I will announce the next reading assignment at the end of each class. Lastly, I reserve the right to amend this schedule and assign supplemental readings as the class goes forward.

Chapter 2: What Is Gross Income: Section 61 and the Sixteenth Amendment (p. 39)

- I. The Constitutional and Statutory Definitions of “Gross Income” (p. 39)
- II. The Constitutional and Statutory Definitions of “Gross Income:”
Accessions to Wealth (p. 74)
- III. The Constitutional and Statutory Definitions of “Gross Income:” Realization (p. 116)
- IV. The Constitutional and Statutory Definitions of “Gross Income:”
Dominion and Control (p. 133)
- Wrap-up Questions for Chapter 2 (p. 141)
- What have you learned? (p. 141)

Chapter 3: Exclusions from Gross Income (p. 143)

- I. The Society and Government that We Want (p. 144)
- II. Social Benefits (p. 164)
- III. Employment-Based Exclusions from Gross Income (p. 176)
- Wrap-up Questions for Chapter 3 (p. 201)
- What have you learned? (p. 201)

Chapter 4: Loans and Cancellation of Indebtedness (p. 202)

- I. Tax Consequences of Borrowing Money (p. 202)
- II. Cancellation of Indebtedness (p. 203)
- III. Settlements of Legal Disputes Over Obligations to Pay or Repay (p. 209)
- IV. Section 108(a)'s Other Provisions (p. 223)
- V. Transactions Involving Property Subject to a Loan (p. 225)
- VI. Transactions Treated as Loans (p. 246)
- Wrap-up Questions for Chapter 4 (p. 250)
- What have you learned? (p. 250)

Chapter 5: Progressivity and Assignment of Income (p. 252)

- I. Compensation for Services (p. 254)
- II. Income Splitting: the Joint Return (p. 261)
- III. Income Derived from Property (p. 267)
- IV. Interest Free Loans and Unstated Interest (p. 279)
- Wrap-Up Questions for Chapter 5 (p. 281)
- What have you learned? (p. 282)

Chapter 6: Deductions: Business Expenses (p. 283)

- I. Expense or Capital (p. 287)
- II. Deductibility Under §§ 162 or 212 (p. 346)
- III. Depreciation, Amortization, and Cost Recovery (p. 422)
- Wrap-Up Questions for Chapter 6 (p. 439)
- What have you learned? (p. 440)

Chapter 7: Personal Deductions and the Standard Deduction (p. 441)

- I. “Tax Expenditures” (p. 446)
- II. Denial of Discretion in Choosing How or What to Consume (p. 464)
- III. Creating a More Efficient and Productive Economy (p. 472)
- IV. Deferral Until Consumption (p. 474)
- Wrap-Up Questions for Chapter 7 (p. 477)
- What have you learned? (p. 477)

Chapter 8: Tax Consequences of Divorce and Intra-Family Transactions (p. 478)

- I. Introduction 478
- II. Before Marriage 479
- III. During Marriage 484
- IV. After Marriage: Tax Consequences of Divorce 493
- Wrap-Up Questions for Chapter 8 500
- What have you learned? 501

Chapter 9: Timing of Income and Deductions: Annual Accounting and Accounting Principles (p. 502)

- I. Annual Accounting (p. 502)
- II. Deferral Mechanisms (p. 515)
- III. Basic Accounting Rules (p. 525)
- Wrap-Up Questions for Chapter 9 (p. 546)
- What have you learned? (p. 546)

Chapter 10: Character of Income and Computation of Tax (p. 547)

- I. Capital Gain (p. 548)
- II. Sections 1245 and 1250: Depreciation Recapture (p. 557)
- III. Section 1231: Some Limited Mismatching (p. 561)
- IV. More Matching (p. 564)
- Wrap-Up Questions for Chapter 10 (p. 569)
- What have you learned? (p. 569)